



2018 lumbar injury under OWCP File No. xxxxxx542.<sup>3</sup> He related that his progressive symptoms were caused by his previously accepted 2018 lumbar injury and that his condition worsened following his return to work, as there was no intervening cause or new injury.

In a report dated May 25, 2021, Dr. Arjang Abbasi, an osteopathic Board-certified physiatrist, detailed appellant's history of injury, noting an injury date of May 24, 2018 as appellant's original injury, and his medical course since that time. He also related that appellant had experienced low back pain while working light duty for approximately four months. Dr. Abbasi diagnosed lumbar disc displacement without myelopathy, lumbar foraminal stenosis, and lumbar radiculopathy. He concluded that appellant's spinal condition and disability were a direct result of his May 24, 2018 employment injury.

On August 6, 2021 OWCP controverted appellant's recurrence claim to one for a new occupational disease and assigned OWCP File No. xxxxxx666.

By decision dated January 12, 2022, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that a diagnosed medical condition causally related to the accepted factors of his federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 28, 2022 appellant appealed to the Board. By order dated August 22, 2022, the Board set aside the January 12, 2022 decision and remanded the case to OWCP to administratively combine OWCP File Nos. xxxxxx672 and xxxxxx666, followed by a *de novo* decision.

Upon return of the case record, OWCP administratively combined OWCP File Nos. xxxxxx666 and xxxxxx672, with the latter serving as the master file.

By decision dated February 27, 2023, OWCP denied appellant's occupational disease claim under OWCP File No. xxxxxx666, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed lumbar conditions and the accepted employment factors. It did not reference Dr. Abbasi's May 25, 2021 report.

The Board, having duly considered the matter, concludes that this case is not in posture for decision.

In the case of *William A. Couch*,<sup>4</sup> the Board held that, when adjudicating a claim, OWCP is obligated to consider and address all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

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<sup>3</sup> In OWCP File No. xxxxxx542 OWCP accepted that, on May 24, 2018, appellant sustained a lower back strain, right hip sprain, lumbar radiculopathy, and lumbar intervertebral disc disorder with myelopathy.

<sup>4</sup> 41 ECAB 548 (1990); *see Order Remanding Case, D.Q.*, Docket No. (issued March 21, 2023); *J.R.*, Docket No. 21-1421 (issued April 20, 2022); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

It is crucial that OWCP consider and address all evidence received prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.<sup>5</sup> The Board finds that this case is not in posture for decision as OWCP did not consider and address Dr. Abassi's May 25, 2021 report in its February 27, 2023 decision.<sup>6</sup> On remand, OWCP shall consider and address all relevant evidence of record. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** that the February 27, 2023 decision of OWCP is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: October 4, 2023  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>5</sup> See *Order Remanding Case, C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); see also *William A. Couch, id.*

<sup>6</sup> See *Order Remanding Case, B.O.*, Docket No. 22-0870 (issued March 2, 2023); *Order Remanding Case, V.C.*, Docket No. 16-0694 (issued August 19, 2016).